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12 Matt Thiessen

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION
16

17 ALLYSON NICHOLE BURNETT,

18 Plaintiff,

19 v.

20 ADAM YOUNG D/B/A OWL CITY,
21 MATT THIESSEN, BRIAN LEE,
UNIVERSAL MUSIC GROUP, INC.,
22 SONGS MUSIC PUBLISHING, LLC,
CARLY RAE JEPSEN, SCHOOLBOY
23 RECORDS, LLC, AMERICAN
SOCIETY OF COMPOSERS,
24 AUTHORS AND PUBLISHERS,
BROADCAST MUSIC, INC., and
25 SESAC, INC.,

26 Defendants.

Case No. 2:12-CV-09203-DSF-VBK

The Honorable Dale S. Fischer
United States District Judge

**ANSWER OF MATT THIESSEN
TO THE COMPLAINT**

DEMAND FOR JURY TRIAL

File Date: October 25, 2012
Final Pretrial Conf.: July 21, 2014
Trial: August 19, 2014

1 Defendant Matt Thiessen (“Defendant”) submits the following answer to the
 2 Complaint of Plaintiff Allyson Nichole Burnett (“Plaintiff”). With respect to the
 3 allegations set forth in the Complaint:

4 **JURISDICTION AND VENUE**

5 1. Defendant avers that Paragraph 1 of the Complaint sets forth legal
 6 conclusions that do not require a response, except admits that this is an action and
 7 that Plaintiff seeks relief under the United States Copyright Act, 17 U.S.C. § 101,
 8 *et seq.* Defendant opposes such relief, and denies that the Plaintiff is entitled to
 9 that relief or any other relief.

10 2. Defendant avers that Paragraph 2 of the Complaint sets forth legal
 11 conclusions that do not require a response. To the extent that Paragraph 2 of the
 12 Complaint sets forth factual allegations regarding Defendant, Defendant denies
 13 those allegations. To the extent that Paragraph 2 of the Complaint sets forth
 14 factual allegations regarding other parties, Defendant denies knowledge or
 15 information sufficient to form a belief as to the truth of them.

16 3. Defendant denies the allegations contained in Paragraph 3 of the
 17 Complaint, except to the extent that Paragraph 3 of the Complaint sets forth factual
 18 allegations regarding parties other than Defendant, Defendant denies knowledge or
 19 information sufficient to form a belief as to the truth of them.

20 4. Defendant denies the allegations contained in Paragraph 4 of the
 21 Complaint.

22 **THE PARTIES**

23 5. Defendant denies knowledge or information sufficient to form a belief
 24 as to the truth of the allegations contained in Paragraph 5 of the Complaint.

25 6. Defendant denies the characterization of the song referred to in
 26 Paragraph 6 as the “Infringing Song,” and incorporates this denial into the
 27 remaining paragraphs of this Answer. Defendant otherwise denies knowledge or

1 information sufficient to form a belief as to the truth of the allegations contained in
2 Paragraph 6 of the Complaint.

3 7. Defendant avers that Paragraph 7 of the Complaint sets forth legal
4 conclusions that do not require a response. To the extent that Paragraph 7 of the
5 Complaint sets forth factual allegations regarding Defendant, Defendant denies
6 those allegations, excepts admits that Defendant is a singer and songwriter, that
7 Defendant maintains a residence in Nashville, Tennessee, and that Defendant is the
8 co-author of a musical composition entitled “Good Time” (“Defendant’s
9 Composition”).

10 8. Defendant denies knowledge or information sufficient to form a belief
11 as to the truth of the allegations contained in Paragraph 8 of the Complaint.

12 9. Defendant denies knowledge or information sufficient to form a belief
13 as to the truth of the allegations contained in Paragraph 9 of the Complaint.

14 10. Defendant denies knowledge or information sufficient to form a belief
15 as to the truth of the allegations contained in Paragraph 10 of the Complaint.

16 11. Defendant denies knowledge or information sufficient to form a belief
17 as to the truth of the allegations contained in Paragraph 11 of the Complaint.

18 12. Defendant denies knowledge or information sufficient to form a belief
19 as to the truth of the allegations contained in Paragraph 12 of the Complaint.

20 13. Defendant denies knowledge or information sufficient to form a belief
21 as to the truth of the allegations contained in Paragraph 13 of the Complaint.

22 14. Defendant denies knowledge or information sufficient to form a belief
23 as to the truth of the allegations contained in Paragraph 14 of the Complaint.

24 15. Defendant denies knowledge or information sufficient to form a belief
25 as to the truth of the allegations contained in Paragraph 15 of the Complaint.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

16. Defendant denies that he has committed any infringement, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

17. Defendant avers that Paragraph 17 of the Complaint sets forth legal conclusions that do not require a response. To the extent that Paragraph 17 of the Complaint sets forth factual allegations regarding Defendant, Defendant denies those allegations, except admits that Defendant is a co-author of Defendant's Composition. To the extent that Paragraph 17 of the Complaint sets forth factual allegations regarding other parties, Defendant denies knowledge or information sufficient to form a belief as to the truth of them.

18. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint.

19. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint.

20. Defendant denies the characterization of the alleged song referred to in Paragraph 20 as the "Infringed Song," and incorporates this denial into the remaining paragraphs of this Answer. Defendant otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint, except denies the characterization of the alleged "motif" referred to in Paragraph 21 as the "Original Motif," and incorporates this denial into the remaining paragraphs of this Answer.

22. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Complaint.

1 23. Defendant denies knowledge or information sufficient to form a belief
2 as to the truth of the allegations contained in Paragraph 23 of the Complaint.

3 24. Defendant denies knowledge or information sufficient to form a belief
4 as to the truth of the allegations contained in Paragraph 24 of the Complaint.

5 25. Defendant denies knowledge or information sufficient to form a belief
6 as to the truth of the allegations contained in Paragraph 25 of the Complaint.

7 26. Defendant denies knowledge or information sufficient to form a belief
8 as to the truth of the allegations contained in Paragraph 26 of the Complaint.

9 27. Defendant denies knowledge or information sufficient to form a belief
10 as to the truth of the allegations contained in Paragraph 27 of the Complaint.

11 28. Defendant denies knowledge or information sufficient to form a belief
12 as to the truth of the allegations contained in Paragraph 28 of the Complaint.

13 29. Defendant denies knowledge or information sufficient to form a belief
14 as to the truth of the allegations contained in Paragraph 29 of the Complaint.

15 30. Defendant denies knowledge or information sufficient to form a belief
16 as to the truth of the allegations contained in Paragraph 30 of the Complaint.

17 31. Defendant denies knowledge or information sufficient to form a belief
18 as to the truth of the allegations contained in Paragraph 31 of the Complaint.

19 32. Defendant denies knowledge or information sufficient to form a belief
20 as to the truth of the allegations contained in Paragraph 32 of the Complaint.

21 33. Defendant denies knowledge or information sufficient to form a belief
22 as to the truth of the allegations contained in Paragraph 33 of the Complaint.

23 34. Defendant denies the allegations contained in Paragraph 34 of the
24 Complaint.

25 35. Defendant denies the allegations contained in Paragraph 35 of the
26 Complaint.

27 36. Defendant denies the characterization of the songwriters referred to in
28 Paragraph 36 as the "Infringing Songwriters," and incorporates this denial into the

1 remaining paragraphs of this Answer. Defendant otherwise denies the allegations
2 contained in Paragraph 36 of the Complaint, except admits that Defendant, Brian
3 Lee and Adam Young are co-writers of Defendant's Composition.

4 37. Defendant denies the allegations contained in Paragraph 37 of the
5 Complaint, including but not limited to the characterization of the alleged "motif"
6 referred to in Paragraph 37 as the "Copied Motif," and incorporates this denial into
7 the remaining paragraphs of this Answer.

8 38. Defendant denies the allegations contained in Paragraph 38 of the
9 Complaint.

10 39. Defendant denies the allegations contained in Paragraph 39 of the
11 Complaint.

12 40. Defendant denies knowledge or information sufficient to form a belief
13 as to the truth of the allegations contained in Paragraph 40 of the Complaint.

14 41. Defendant denies the allegations contained in Paragraph 41 of the
15 Complaint.

16 42. Defendant denies the allegations contained in Paragraph 42 of the
17 Complaint.

18 43. Defendant denies the allegations contained in Paragraph 43 of the
19 Complaint.

20 44. Defendant denies knowledge or information sufficient to form a belief
21 as to the truth of the allegations contained in Paragraph 44 of the Complaint,
22 except admits the existence of a recording of Defendant's Composition by the
23 artist professionally known as "Owl City" and Carly Rae Jepsen.

24 45. Defendant denies knowledge or information sufficient to form a belief
25 as to the truth of the allegations contained in Paragraph 45 of the Complaint.

26 46. Defendant denies knowledge or information sufficient to form a belief
27 as to the truth of the allegations contained in Paragraph 46 of the Complaint,

1 except avers that Plaintiff is not entitled to any credit or attribution for the
2 authorship of Defendant's Composition.

3 47. Defendant denies the allegations contained in Paragraph 47 of the
4 Complaint.

5 48. Defendant denies the allegations contained in Paragraph 48 of the
6 Complaint.

7 49. Defendant denies knowledge or information sufficient to form a belief
8 as to the truth of the allegations contained in the first sentence of Paragraph 49 of
9 the Complaint. Defendant denies the allegations contained in the second sentence
10 of Paragraph 49 of the Complaint.

11 50. Defendant denies knowledge or information sufficient to form a belief
12 as to the truth of the allegations contained in Paragraph 50 of the Complaint.

13 51. Defendant denies knowledge or information sufficient to form a belief
14 as to the truth of the allegations contained in Paragraph 51 of the Complaint.

15 **FIRST CLAIM FOR RELIEF**

16 52. In response to Paragraph 52 of the Complaint, Defendant repeats and
17 realleges his responses to Paragraphs 1-51 of the Complaint as if fully set forth
18 herein.

19 53. Defendant avers that Paragraph 53 of the Complaint sets forth legal
20 conclusions that do not require a response. To the extent that Paragraph 53 of the
21 Complaint sets forth factual allegations, Defendant denies knowledge or
22 information sufficient to form a belief as to the truth of them.

23 54. Defendant avers that Paragraph 54 of the Complaint sets forth legal
24 conclusions that do not require a response. To the extent that Paragraph 54 of the
25 Complaint sets forth factual allegations, Defendant denies knowledge or
26 information sufficient to form a belief as to the truth of them.

1 55. Defendant denies the allegations contained in Paragraph 55 of the
2 Complaint, except admits that Defendant, Brian Lee and Adam Young are co-
3 authors of Defendant's Composition.

4 56. Defendant denies the allegations contained in Paragraph 56 of the
5 Complaint.

6 57. Defendant denies the allegations contained in Paragraph 57 of the
7 Complaint.

8 58. Defendant denies knowledge or information sufficient to form a belief
9 as to the truth of the allegations contained in Paragraph 58 of the Complaint.

10 59. Defendant denies knowledge or information sufficient to form a belief
11 as to the truth of the allegations contained in Paragraph 59 of the Complaint.

12 60. To the extent that Paragraph 60 of the Complaint sets forth factual
13 allegations regarding parties other than Defendant, Defendant denies knowledge or
14 information sufficient to form a belief as to the truth of them. Defendant further
15 avers that the term "substantial sums" is vague and imprecise, and therefore he
16 cannot admit or deny the first sentence of Paragraph 60 to the extent that sentence
17 purports to set forth factual allegations regarding Defendant. To the extent that
18 Paragraph 60 of the Complaint otherwise sets forth factual allegations regarding
19 Defendant, Defendant denies those allegations, except admits that Defendant is a
20 co-writer of Defendant's Composition.

21 61. To the extent that Paragraph 61 of the Complaint sets forth factual
22 allegations regarding parties other than Defendant, Defendant denies knowledge or
23 information sufficient to form a belief as to the truth of them. To the extent that
24 Paragraph 61 of the Complaint sets forth factual allegations regarding Defendant,
25 Defendant denies those allegations, except admits that he has never sought or
26 obtained permission to copy, record, publish, perform or make a derivative work of
27 the alleged composition that Plaintiff alleges in the Complaint to have been
28 infringed, and avers that no such permission is or was necessary.

1 62. Defendant denies the allegations contained in Paragraph 62 of the
2 Complaint.

3 63. Defendant denies the allegations contained in Paragraph 63 of the
4 Complaint.

5 64. Defendant denies the allegations contained in Paragraph 64 of the
6 Complaint.

7 65. Defendant denies the allegations contained in Paragraph 65 of the
8 Complaint.

9 66. Defendant denies the allegations contained in Paragraph 66 of the
10 Complaint.

11 67. Defendant denies the allegations contained in Paragraph 67 of the
12 Complaint.

13 68. Defendant denies the allegations contained in Paragraph 68 of the
14 Complaint.

15 69. Defendant denies the allegations contained in Paragraph 69 of the
16 Complaint, excepts admits that Plaintiff has requested certain relief from the Court.
17 Defendant denies Plaintiff is entitled to that relief, or to any other relief.

18 70. Defendant denies the allegations contained in Paragraph 70 of the
19 Complaint.

20 71. Defendant denies the allegations contained in Paragraph 71 of the
21 Complaint.

22 72. Defendant denies the allegations contained in Paragraph 72 of the
23 Complaint.

24 **SECOND CLAIM FOR RELIEF**

25 73. In response to Paragraph 73 of the Complaint, Defendant repeats and
26 realleges his responses to Paragraphs 1-72 of the Complaint as if fully set forth
27 herein.

1 74. Defendant avers that no response is required by Defendant to
2 Paragraph 74 of the Complaint, as it solely concerns a cause of action against
3 parties other than Defendant.

4 75. Defendant avers that no response is required by Defendant to
5 Paragraph 75 of the Complaint, as it solely concerns a cause of action against
6 parties other than Defendant.

7 76. Defendant avers that no response is required by Defendant to
8 Paragraph 76 of the Complaint, as it solely concerns a cause of action against
9 parties other than Defendant.

10 77. Defendant avers that no response is required by Defendant to
11 Paragraph 77 of the Complaint, as it solely concerns a cause of action against
12 parties other than Defendant.

13 78. Defendant avers that no response is required by Defendant to
14 Paragraph 78 of the Complaint, as it solely concerns a cause of action against
15 parties other than Defendant.

16 79. Defendant avers that no response is required by Defendant to
17 Paragraph 79 of the Complaint, as it solely concerns a cause of action against
18 parties other than Defendant.

19 80. Defendant avers that no response is required by Defendant to
20 Paragraph 80 of the Complaint, as it solely concerns a cause of action against
21 parties other than Defendant.

22 81. Defendant avers that no response is required by Defendant to
23 Paragraph 81 of the Complaint, as it solely concerns a cause of action against
24 parties other than Defendant.

25 82. Defendant avers that no response is required by Defendant to
26 Paragraph 82 of the Complaint, as it solely concerns a cause of action against
27 parties other than Defendant.

1 83. Defendant denies that Plaintiff is entitled to any of the relief described
2 in her Prayer for Relief, or to any other relief whatsoever.

3
4 **AFFIRMATIVE AND OTHER DEFENSES**

5 Without waiving or excusing the burden of proof of Plaintiff, or admitting
6 that Defendant has any burden of proof, Defendant asserts the following
7 affirmative and other defenses.

8 **FIRST DEFENSE**

9 The Complaint and any purported claims for relief therein fail to state a
10 claim upon which relief can be granted.

11 **SECOND DEFENSE**

12 The Complaint and any purported claims for relief therein are barred,
13 precluded, and/or limited by the statute of limitations.

14 **THIRD DEFENSE**

15 Plaintiff has no standing to assert her Complaint and any claim therein.

16 **FOURTH DEFENSE**

17 The alleged copyrighted work that is the subject of this Complaint consists
18 of material that is not original, and does not constitute protectable copyrightable
19 subject matter.

20 **FIFTH DEFENSE**

21 Plaintiff's Complaint and any claims therein are barred, precluded, and or
22 limited by the doctrines of waiver, laches, and estoppel.

23 **SIXTH DEFENSE**

24 Plaintiff's Complaint and any claims therein are barred, precluded, and/or
25 limited to the extent any alleged use of Plaintiff's copyrightable material
26 constitutes fair use or de minimis use.

1 **SEVENTH DEFENSE**

2 Plaintiff's alleged damages, if any, are due solely to acts and omissions that
3 are not those of and are independent from the defendants.

4 **EIGHTH DEFENSE**

5 Plaintiff has failed to mitigate any alleged damages.

6 **NINTH DEFENSE**

7 Plaintiff's Complaint and any claims therein are barred by the doctrines of
8 acquiescence and unclean hands.

9 **TENTH DEFENSE**

10 The composition and recording of the allegedly infringing work were
11 independently created without reference to Plaintiff's alleged copyrighted work.

12 **ELEVENTH DEFENSE**

13 Any similarity between the compositions is the result of coincidence and/or
14 the use of common or trite ideas.

15 **TWELFTH DEFENSE**

16 This Court does not possess personal jurisdiction over Defendant.

17
18 WHEREFORE, Defendant prays that Plaintiff take nothing by her
19 Complaint, and that Defendant be awarded his costs, including reasonable
20 attorneys' fees incurred in the defense of this action, pursuant to 17 U.S.C. § 505,
21 and for any other relief the Court deems just and proper.

22
23 DATED: July 15, 2013

CHRISTINE LEPERA
JEFFREY M. MOVIT
ELAINE K. KIM
EMILY F. EVITT
MITCHELL SILBERBERG & KNUPP LLP

24
25
26 By: /s/ Emily F. Evitt

27
28 Attorneys for Matt Thiessen

Mitchell
Silberberg &
Knupp LLP

DEMAND FOR JURY TRIAL

Defendant Matt Thiessen hereby demands a trial by jury.

DATED: July 15, 2013

CHRISTINE LEPERA
JEFFREY M. MOVIT
ELAINE K. KIM
EMILY F. EVITT
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Emily F. Evitt

Attorneys for Matt Thiessen